

MONTANA LEGISLATIVE HISTORY

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Chapter 395 19 93

Bill H 201 S _____ Original bill & history C

H. Committee on Business & Economic Development S. Committee on Business & Industry

Hearing Date(s) Mar 04 ☒ C

Hearing Date(s) Jan 28 ☒ C

Mar 09 ☒ C

Feb 03 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Mar 09 ☒ C

Feb 01 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE		
4/21	FREE CONFERENCE COMMITTEE APPOINTED	
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 1	
4/24	2ND READING FREE CONFERENCE COMMITTEE	
	REPORT NO. 1 ADOPTED	83 16
4/24	3RD READING FREE CONFERENCE COMMITTEE	
	REPORT NO. 1 ADOPTED	82 18
SENATE		
4/22	FREE CONFERENCE COMMITTEE APPOINTED	
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 1	
4/24	2ND READING FREE CONFERENCE COMMITTEE	
	REPORT NO. 1 ADOPTED	29 19
4/24	3RD READING FREE CONFERENCE COMMITTEE	
	REPORT NO. 1 ADOPTED	31 18
4/28	SIGNED BY SPEAKER	
4/28	SIGNED BY PRESIDENT	
4/29	TRANSMITTED TO GOVERNOR	
5/17	SIGNED BY GOVERNOR	
	CHAPTER NUMBER 640	
	EFFECTIVE DATE: 05/17/93—SECTIONS 8, 12, 13 & 14	
	EFFECTIVE DATE: 07/01/93—SECTIONS 1-7, 9-11 & 15	

HB 199 INTRODUCED BY RUSSELL, ET AL.

ELIMINATE REQUIREMENT THAT DISQUALIFICATION FROM
UNEMPLOYMENT BENEFITS FOR LEAVING WORK WITHOUT GOOD
CAUSE MUST BE ATTRIBUTABLE TO EMPLOYMENT

1/15	INTRODUCED	
1/15	REFERRED TO LABOR & EMPLOYMENT RELATIONS	
1/15	FIRST READING	
1/15	FISCAL NOTE REQUESTED	
1/20	FISCAL NOTE RECEIVED	
1/20	FISCAL NOTE PRINTED	
1/21	HEARING	
2/02	COMMITTEE REPORT—BILL NOT PASSED	
2/04	ADVERSE COMMITTEE REPORT ADOPTED	52 47

HB 200 INTRODUCED BY BERGMAN

ALLOW INVESTMENT OF PUBLIC MONEY IN FACE-AMOUNT CERTIFICATES

1/15	INTRODUCED	
1/15	REFERRED TO STATE ADMINISTRATION	
1/15	FIRST READING	
1/15	FISCAL NOTE REQUESTED	
1/20	REFERRED TO LOCAL GOVERNMENT	
1/22	FISCAL NOTE RECEIVED	
1/22	FISCAL NOTE PRINTED	
1/28	HEARING	
2/02	TABLED IN COMMITTEE	

HB 201 INTRODUCED BY HIBBARD, ET AL.

GENERALLY REVISE BANKING LAWS
BY REQUEST OF DEPARTMENT OF COMMERCE

1/15	INTRODUCED	
1/15	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT	
1/15	FIRST READING	
1/24	FISCAL NOTE REQUESTED	
1/25	FISCAL NOTE RECEIVED	
1/26	FISCAL NOTE PRINTED	

1/29	HEARING		
2/01	REVISED FISCAL NOTE RECEIVED		
2/02	REVISED FISCAL NOTE PRINTED		
2/04	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	2ND READING PASSED	95	1
2/09	3RD READING PASSED	96	3
	TRANSMITTED TO SENATE		
2/11	FIRST READING		
2/11	REFERRED TO BUSINESS & INDUSTRY		
3/04	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED		
3/12	2ND READING CONCURRED AS AMENDED	48	0
3/13	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	94	3
4/02	3RD READING AMENDMENTS CONCURRED	92	8
4/13	SIGNED BY SPEAKER		
4/13	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 395		
	EFFECTIVE DATE: 04/19/93—SECTIONS 1, 7, 8 & 52		
	EFFECTIVE DATE: 10/01/93—SECTIONS 2-6 & 9-51		

HB 202 INTRODUCED BY KADAS

GENERALLY REVISE SCHOOL LAWS TO COMPLY WITH GENERALLY
ACCEPTED ACCOUNTING PROCEDURES AND OTHER SCHOOL
FUNDING PROVISIONS

BY REQUEST OF SUPERINTENDENT OF PUBLIC INSTRUCTION

1/15	INTRODUCED		
1/15	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/15	FIRST READING		
1/22	HEARING		
1/26	FISCAL NOTE REQUESTED		
2/01	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/10	2ND READING PASSED	95	2
2/11	REVISED FISCAL NOTE REQUESTED		
2/17	REVISED FISCAL NOTE RECEIVED		
2/17	REVISED FISCAL NOTE PRINTED		
2/23	3RD READING PASSED	96	3
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/17	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/24	2ND READING CONCURRED	50	0
3/25	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS NOT CONCURRED	93	2
4/02	CONFERENCE COMMITTEE APPOINTED		
	SENATE		
4/05	CONFERENCE COMMITTEE APPOINTED		
	DIED IN PROCESS		

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN STEVE BENEDICT, on January 29, 1993,
at 9:00 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chair (R)
Rep. Sonny Hanson, Vice Chair (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (X)D
Rep. Doug Wagner (R)

Members Excused: Rep. Vicki Cocchiarella

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 201 & HB 358
Executive Action: HB 331

HEARING ON HB 201

Opening Statement by Sponsor:

REP. CHASE HIBBARD, House District 46, Helena, said HB 201 is an
act generally revising the laws relating to banking; revising the

laws relating to the state banking board; removing the director of the Department of Commerce as the chairman of the board; authorizing the board to elect a presiding officer; and reducing the time between bank inspections; authorizing the acceptance of federal reports in lieu of examinations; clarifying the purpose of the banking laws; applying general corporate law to the formation and reorganization of banks; excluding repurchase agreements from the limitation on borrowing, revising bank investments; removing the limit on safe deposit functions; revising reserve requirements, revising dissolution, closing, and liquidation procedures; and statutorily appropriating unclaimed funds for the payment of claims. He gave a background of HB 201, stating that the Montana state-chartered banks and trust companies are regulated by the Financial Division of the Department of Commerce which currently regulates 127 bank offices, and 3 trust companies with total assets approaching \$4 billion. The Commissioner of Financial Institution is the administrator of the Financial Division. Most of Montana's banking laws were written in 1927, and many of them have been amended 1 or more times, but no comprehensive changes have taken place since that time. The amendments have created inconsistencies with other laws and are becoming more difficult for banks, regulators, and the legal system to competently and affectively deal with the Bank Act. He said, in response to the situation, Governor Stephens created the Montana State Banking Code Advisory Council in December of 1991. It was comprised of seven bankers, two accountants, two banking attorneys, two private citizens, and two legislators. He said that most of them were here today and would testify for the bill. The two legislators, Dave Hoffman and Dick Pinsoneault were defeated in their campaigns, and would have carried this bill if they had been successful. He said the council was created to identify outdated language and requirements, as well as admissions or conflicts in statutes that are not conducive to the proper supervision of state banks. A few of the issues addressed were; insuring that the powers and duties of the Commissioner of Financial Institutions are clearly set forth in the banking code; defining a comprehensive mission and purpose of the Financial Division; insuring the Commissioner of Financial Institutions is involved in the legislative process; and insuring that the statutory authority is developed to address the areas where supervision is now lacking. He said that most of the recommendations in HB 201 are of a housekeeping nature. The modernized language, the clarified duties of the responsibilities, the elimination of sections that are obsolete and corrects conflicts with other laws. He said there are several significant changes, but would let the proponents deal with them. He did point out two significant changes; on page 3, section 1, the composition of the state banking board changes the number of members from seven to six by dropping the Director of the Department of Commerce, and will allow the board to elect a presiding officer. It also strikes one banking member and one public member that were appointed from each congressional district of the state. He referred to the impact of the fiscal

note. For fiscal year 1994, the impact is \$283,700, and \$266,700 for 1995. The back page of the fiscal note shows the fiscal impact to be paid for by an assessment on the Financial Institutions. It states that the increase of assessment revenue from regulated Financial Institutions will offset the increase in expenses. He said this is a charge that is assessed to all member banks, and will not be a drain on the general fund. When the fiscal note came out it appeared to be accurate, but after some discussion with the bankers, and the advisory committee members, the commissioner decided it wasn't accurate. The changes in HB 201 are not reflected by the impact shown above, and should be \$26,944 for 1994, and \$24,869 for 1995, which will pay for the exemption of the commissioner. On page 5, line 18, it states the Commissioner of Financial Institutions will be exempt, and the cost of the exempt position is what the new numbers should accurately reflect. He informed the chairman and the committee members that he would obtain an amended fiscal note to reflect the true costs of the bill rather than the fiscal note that was before the committee. He had spoken with the budget director, David Lewis, who agreed it is appropriate, and will take care of this before executive action is taken on the bill. Rep. Hibbard distributed a proposed amendment for HB 201. On page 38, lines 14 & 15, to change the current language from "shares of stock in a Montana Capital Company within limits prescribed by the Montana Capital Company Act" to "shares of stock in a Montana Capital Company or the Montana Small Business Investment Capital Company within limits prescribed by the Montana Capital Company Act". SEE EXHIBIT 1

Proponents' Testimony:

Don Hutchinson, Commissioner of Financial Institutions, State of Montana, distributed a handout on the statutes and objectives of information from the State Banking Code Advisory Council. He said HB 201 is the result of eighteen months of Governor Stephen's Banking Code Advisory Council, the Department of Commerce, and the Financial Division staff. HB 201 is strongly supported by the Department of Commerce, Montana's eight chartered banks, the Montana Banker's Association, the Montana Independent Banker's Association, and the legal and accounting professions that are actively involved in banking practices. He said the code revision is especially timely, due to recent developments in regulatory procedures occurring at the federal level which effects the operations of the FDIC, NOCC, Federal Reserve, and regulators of every state. He said if the budget committee denied their request, they could still use HB 201 to address the present facilities in their department. Montana's Financial Division needs additional support to perform the statutory workload which has increased dramatically since 1991 due to the following; 1) five national banks have converted their charters to state charters involving \$750 million in assets in 1992. The assets in state-chartered banks are estimated to have grown between \$700 million to \$800 million in 1992, which represents \$1.5 billion in new assets to be regulated. He said

the examinations are taking longer to complete due to the increased complexity as a result of congressional mandates coming down from the regulatory agencies; and 2) 3 new national banks will be converting to state bank charters in 1993, and represents an additional \$105 million in assets. The staff and necessary support to complete these statutory responsibilities will be funded by the adjustments to the state chartered banks in Montana. He urged a do pass for HB 201.

Bill Ruegamer, appointed chairman of the Banking Code Advisory Council at the request of Governor Stephens, MBA-MIB/First Interstate Bank, said the general purpose of the council was to review and clarify standardized banking codes. He said HB 201 is a neutral revision of the banking codes, and is supported by most of the bankers in the state. The revision upgrades and modernizes the banking codes for Montana, and will also make them consistent with the corporate codes. He said the fiscal note became more of an issue than the bill itself, and clarified that the Advisory Council was very concerned in addressing additional expenses to the banking community even though the budget is paid for by assessments to the banks. Mr. Ruegamer said the state banking department has been operating at a surplus for the last few years, and with the exemption of Commissioner Hutchinson, the increases would be absorbed by the existing budget. He said the other states that have revised their codes have done so at a cost of \$50,000 to \$400,000 for consultants and accounting firms, etc. He asked that the committee give HB 201 a favorable do pass motion.

Gary Carlson, CPA, said he was also a member of the Banking Advisory Council. He felt that the council's recommendations would improve and streamline the laws relating to banking by bringing them forward to the 21st century, and inducting them into the Montana Corporate Act. He urged the committee's support for HB 201.

Roger Tippy, Attorney & Lobbyist for Montana Independent Bankers Association, was also a member of the Bankers Advisory Council. Mr. Tippy said the council was divided into three subcommittees who worked through the vintage 1927 codes section by section. Mr. Tippy chaired the committee that dealt with the day to day operations of the banks. The changes his committee made were to equalize any disadvantages that banks having a state charter might have versus a banks receiving a national charter, i.e., how much a bank can spend on a safe deposit vault; or whether a state bank can participate in the programs of the federal home loan bank boards, which national banks have been allowed to do for the last few years. The committee recommended that anything that was inconsistent with what the national banks were allowed to do be removed from the codes. He said there would be a fair amount of rulemaking published in the administrative register by the Department of Commerce. His committee did not care for the policy of incorporating by reclude many of the voluminous federal regulations that the bankers labor under. If the state adopts

this, and the federal government makes changes, then the state can go through a notice process to see if they want to make those same changes state policy. He asked for a favorable consideration of HB 201.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

Rep. Larson asked Bill Ruegamer what the incentives are for a nationally-chartered bank compared to a state-chartered bank? Mr. Ruegamer replied that he is with the First Interstate Bank System of Montana, which is a \$700 million company. He said First Bank recently converted to the state banking charter systems; two of the banks were national banks, and five were state banks. The state banks will primarily maintain the dual banking system as opposed to federal and state jurisdiction. This area is important for the banking people to talk to the bank commissioner directly, which is lost when dealing with the controller's currency of FDIC, and the Federal Reserve. He said there are still federal banking regulations, but the primary regulator would be the state.

Rep. Ellis asked Bill Ruegamer why it will take six more FTE with less regulation. Mr. Ruegamer said HB 201 will not need extra staff. If there is a need for more examiners, they will come from the addition of state banks, which is national banks converting to state bank charters. He said the first fiscal note does not apply to this bill.

Chairman Benedict reminded the committee that the fiscal note before them is not correct, and Rep. Hibbard will have the correct one before executive action is taken on this bill.

Rep. Stella Jean Hansen asked Roger Tippy about the new language on page 37, line 7, where it states a bank may borrow funds from a federal home loan bank for use in financing home ownership; she asked if they weren't doing that now? Mr. Tippy said the federal home loan bank board used to be more involved in regulating until the S & L bailout, now they participate as a correspondent bank for residential lending programs by the banks. He said there were two problems with state-chartered banks: 1) being able to sign up for a federal home loan, a person had to purchase a certain amount of stock in a federally chartered corporation, because there were limits in state law on how much stock and public corporations a state chartered bank could buy, which is 5% of their capital surplus, and the minimum stock purchased from federally home loan banks was greater than that; and 2) the

federal home loan bank port office in Seattle said that once the state banks in Montana could buy a minimal amount of stock in their federal home loan bank corporation, they will then have authority to borrow from the port office in Seattle. He said this is not clear language in the state now, but if one section is amended to let state banks join, the other section needs to be amended to let them borrow.

Rep. Herron asked Roger Tippy about the two effective dates; one is for Sections 1, 7, 8 and 52 to be effective on passage and approval; and Sections 2 through 6 and 9 through 51 are effective October 1, 1993. Mr. Tippy referred the question to Anne Bartos, legal Counsel for the Department of Commerce, who said the immediate effective date of July 1, 1993, was for the changes made from 7 to 6 members on the board, and the exempt position of the commissioner. The effective date of October 1, 1993 is for budgetary purposes.

Closing by Sponsor:

Rep. Hibbard said there are additional costs that will be dealt with elsewhere in the legislative and budgetary process. The new fiscal note will accurately reflect the cost of this bill. The purpose of this bill is to bring the 1927 codes up to modern times, and comply with modern corporate law. He said the entire banking community, and the bank associations are in favor of this bill. He asked for the committee's favorable vote on HB 201.

HEARING ON HB 358

Opening Statement by Sponsor:

REP. JOE BARNETT, House District 76, Bozeman, said HB 358 reflects a compromise between the Montana Independent Bankers, the Montana Bankers Association, and the larger corporate chains of banks. This bill will allow for the first time since 1956, out-of-state bank holding companies to buy and operate banks in Montana. Rep. Barnett noted to the committee an error on page 1, line 16, it should read "numbers" not "members". He distributed a written statement. EXHIBIT 3

Proponents' Testimony:

Bill Ruegamer, MBA-MIA/First Interstate Bank Systems of Montana, said there were 3 banking bills drafted within a 6 month period prior to the Legislature. It was determined at a meeting in Billings in late November of 1992 to put the 3 bills together and make what is now HB 358. Mr. Ruegamer asked if it was ok with the committee to have all the bankers stand to give their names and banks they represent, which approximately 35 did stand and introduced themselves. Most of the names are listed on the visitor's register. Mr. Ruegamer complimented and thanked the banking members for putting together a compatible bill. He said

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

1-29-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA			✓
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

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EXHIBIT 1
DATE 1-29-93
HB 201

Proposed Amendment
House Bill 201

The Montana Small Business Investment Company would like to request an amendment to House Bill 201 as follows:

Page 38, Section 26, line 14 & 15

Section 32-1-422, (2) (c), MCA,

Current language:

(c) shares of stock in a Montana capital company within limits prescribed by the Montana Capital Company Act.

Proposed language:

(c) shares of stock in a Montana capital company or the Montana small business investment capital company within limits prescribed by the Montana Capital Company Act.

Reason:

When the Montana Capital Company Act was amended during the 1991 Legislative session to create the Montana small business investment capital company, this change in the statute was inadvertently missed. The change is necessary to allow state chartered banks the same right to invest in the Montana Small Business Investment Company (MSBIC) that nationally chartered banks will have. The organizers of the MSBIC expect that a significant portion of their capital will come from investments by banks.

A. PROGRAM OVERVIEW (Statutes & Objectives)

Mission

The mission of Montana's Financial Institutions Division and the State Banking Board is to allocate, through quality management, available resources to implement effective regulatory programs for the institutions we regulate. Our primary focus is to ensure the continuance of safe and sound financial practices in state chartered banks. It follows that the financial services offered by these sound institutions should foster economic growth, and meet the public demand for these financial services in their communities. To accomplish this mission, the division and board are committed to the development of a work environment conducive to high productivity.

Responsibilities

The division accomplishes its responsibilities through several information gathering sources. However, the principal method is the periodic examination of each state chartered institution by field examiners. The result of an examination is a detailed analysis of an institution's condition. The examiner analyzes the capabilities of officers and directors; adequacy of the bank's policies, capital, earnings and liquidity; the quality of assets, asset/liability mix; and compliance with laws and regulations. The examination may indicate conditions ranging from banks with no problems, ones with potential problems, or to ones with severe and continuing problems. While the majority of Montana banks are financially sound, some do develop problems. Problems frequently encountered are large volumes of poor quality assets (usually loans), that become uncollectible and are a loss to the bank, poor earnings, an unstable or declining deposit base, inadequate capital or liquidity and internal control problems.

"Problem banks" usually exhibit an array of problem areas rather than one specific problem area. The early detection of problems within a bank enables the division to concentrate its resources most effectively to control or eliminate problems. In extreme cases the Commissioner has legal authority to initiate formal or informal actions such as board resolutions, memorandums of understanding, or cease and desist orders. These documents specify the banks problems, require corrective actions, and allow reasonable time for correction.

Institutions regulated and examined by the division include 127 state chartered banks and branches, 3 trust companies, 16 credit unions, 20 consumer loan companies, 86 sales finance companies and 5 private escrow companies. We presently have an authorized staff of 13 field examiners, 2 examiner supervisors, and an office staff of 5. The institutions regulated and examined by the division range from small and relatively uncomplicated institutions with assets of only a few million dollars, to large and highly sophisticated banks with assets in the 5 to 7 hundred million dollar range.

The division's authority to regulate banks extends only to state chartered banks. National banks are regulated by the Comptroller of the Currency. State chartered banks are composed of two groups, those which are members of the Federal Reserve System and those which are not. Membership in the Federal Reserve System is a

matter of choice for each state chartered bank. Member banks, in addition to state regulation and examination, are also subject to regulation and examination by the Federal Reserve System. Non-member banks are subject to examination by the FDIC and this division. The division may examine a bank independently or may be joined by examiners from the Federal Reserve or FDIC for a concurrent examination.

Authorization

Title 2-15-1803, MCA	Establishes the State Banking Board
Title 31-1-221-222, MCA	Licensing of sales finance companies
Title 32-1-202, MCA	Duties of State Banking Board
Title 32-1-211, MCA	Examination and supervision of banks and trust companies
Title 32-2-205, MCA	Chartering savings & loan associations
Title 32-2-301, MCA	Examination of savings & loan associations
Title 32-3-301, MCA	Chartering credit unions
Title 32-3-203, MCA	Examination of credit unions
Title 32-4-306, MCA	Examination of Development Corporations
Title 32-5-201, MCA	Licensing of consumer loan companies
Title 32-5-403, MCA	Examination of consumer loan companies
Title 32-7-109, MCA	Licensing of escrow companies
Title 32-7-108, MCA	Examination of escrow companies
Title 72-27-203, MCA	Reports on prearranged funeral plans
U.S.C. Sec.10 FDI Act	FDIC Improvement Act requires less time between examinations

BACKGROUND

Montana state chartered banks and trust companies are chartered and regulated by the Financial Division of the Montana Department of Commerce. The Division currently regulates 86 banks and 3 trust companies with total assets approaching 4 billion dollars. The Commissioner of Financial Institutions is the Administrator of the Financial Division.

The bulk of Montana's banking laws (the Bank Act, Title 32, Chapter 1, MCA) were written in 1927. Many of the banking laws have been amended one or more times since then, in an attempt to keep pace with changes in the banking industry and public needs. However, no comprehensive review of banking law appears to have taken place since 1927. Amendments to existing laws occasionally have created conflicts or inconsistencies with other laws. Certain laws which are dealt with only infrequently may not have been amended or updated and address archaic concepts. Coupled with very rapid changes in federal laws, and changes in other pertinent state laws (especially the Uniform Commercial Code and the corporate code) it has become increasingly difficult for banks, regulators and the legal system to confidently and effectively deal with the Bank Act.

In response to this situation, Governor Stephens issued Executive Order 34-91 on December 3, 1991, creating the Montana State Banking Code Advisory Council. The Council was created for "...identifying outdated language and requirements as well as omissions or conflicts in statute that are not conducive to the proper supervision of state banks." Issues to be addressed, at a minimum, included:

"(a) Ensuring the powers and duties of the Commissioner of Financial Institutions are clearly set forth in the Banking Code.

(b) Defining a comprehensive mission and purpose for the Financial Division as it relates to the regulation and supervision of state banking institutions.

(c) Ensuring that the Commissioner of Financial Institutions is involved in the legislative process with the responsibility for drafting legislation and determining the impact on the public, the banking community and the Financial Division.

(d) Ensuring that statutory authority is developed to address the areas where supervision is now lacking but deemed necessary for the proper supervision of state banks, including the examination of holding companies, electronic data processing and community reinvestment requirements, etc."

The members of the Council agreed not to address interstate banking, interstate branching or intrastate branching.

The Council is composed of 18 members: 6 from the banking industry, 2 attorneys representing both of the state's banking associations, 2 accountants, 1 member of the State Banking Board, 2 private citizens, the Commissioner of Financial Institutions, the attorney for the Financial Division, the Director of the Department of Commerce, a member of the Montana Senate, and a member of the Montana House of Representatives.

The recommendations of the Council have been reported to and reviewed by the Financial Division of the Department of Commerce, the State Banking Board and are in the process of being reviewed by a committee of the State Bar Association. The report has been submitted to the Governor's Office and to the Legislative Council for drafting.

RECOMMENDATIONS OF THE COUNCIL

Most of the recommendations made by the Council are of a "house-keeping" nature: modernizing language, clarifying duties and responsibilities, eliminating sections of law that clearly are obsolete, and correcting conflicts with other laws. Significant real changes affecting the operation of banks or the Financial Division include:

<u>Section</u>	<u>Change</u>
----------------	---------------

- | | |
|----------|---|
| 32-1-211 | Reduces from 30 months to 24 months the time allowed between bank examinations by the Financial Division. Also reduces from 120 days to 60 days the time allowed for submitting the completed examination report to the bank. |
| 32-1-218 | Broadens the Financial Division's rulemaking authority to better meet its responsibilities and obligations. |
| 32-1-3xx | This Part of the law generally governs the formation and organization of the banking <u>corporation</u> . Wherever reasonable and prudent, general corporation law will be incorporated into this Part. A number of existing sections will be deleted. The intent is to modernize and standardize bank's corporate matters. |
| 32-1-412 | Increases, to a certain extent, the ability of banks to borrow money to accommodate the use of repurchase agreements, which possess characteristics of both deposits and borrowings; and to allow participation in certain federal housing programs. |
| 32-1-422 | Gives the Financial Division rulemaking authority to permit bank investments in certain types of corporate stock. |

32-1-432 Addresses long-time problems and misunderstandings of legal lending limits to borrowers.

32-1-465 &

32-1-467 Reduces restrictions on bank officer, director and employee overdrafts and loans to directors or a bank's managing officer. Brings state law into conformance with existing federal law.

In addition to the legal recommendations, the Council also recognized staff retention problems within the Financial Division and recommended increasing bank examiner salaries and using certain incentives in an attempt to retain experienced examiners.

EXHIBIT 2
DATE 1-29-93
HB 201

BANKING CODE ADVISORY COUNCILRECOMMENDATION ON BANK EXAMINER PAY

The history of employing financial institution examiners within the Department of Commerce has been one of frustration and inefficiency. The Financial Division has been able to advertise for and employ entry level examiners with little difficulty. The entry level examiners are usually hired upon graduation in accounting from an accredited university or college. The degree they received in college is basically the minimum qualification required to enter a training period to become a qualified financial institution examiner. After employment, the division will spend over \$5,000 in direct training costs for schools administered by the Federal Deposit Insurance Corporation (FDIC) and the Council of State Bank Supervisors (CSBS). Additional funds will be spent on travel, meals and lodging. In addition, this training period greatly reduces the examiner-in-training's ability to perform useful examination work for the division and the financial institutions being examined.

Following this initial training period, examiners spend several years performing progressively responsible duties in the examination process. Ultimately, a seasoned examiner earns the title of "Examiner-in-Charge" and is responsible for the supervision of other examiners while performing an examination of a financial institution. Unfortunately, once the examiners have been educated by the state, their worth in the market place is such that the state can no longer afford to employ these individuals. The tenure with the department is typically 2.5 years which is well before the department receives a return on the training investment cost which has already been committed.

Employees of the Financial Division have opportunities for employment with surrounding states and with federal agencies which include the Federal Reserve Bank of Helena, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration. The comparatively low salaries for examiners working for the State of Montana creates a situation where the state is in many instances a training program for other states, federal agencies, and private financial institutions. This diminishes the quality, effectiveness and timing of the Financial Division in performing its statutorily mandated examination responsibility to financial institutions. It also adversely affects those financial institutions who pay annual fees to the state for examinations.

1-29-93

HP 201

Since January of 1988, the Financial Division has hired 17 permanent, full-time examiners to fill the 15 legislatively authorized examination positions. Of these 17 new hires, 10 remain with the division but 7 of those have been employed for less than one year. Only two of the existing examiners have been employed with the Financial Division since 1989. This turnover is thought to occur because of two main factors -- travel demands in the job and comparatively low pay for higher level examiners. These two factors combined result in the loss of virtually every new employee hired within the first two and one-half years. These employees leave just at the time they have received sufficient education and experience provided by the state to independently perform the examinations.

Because of the turnover in 1991, the Division attempted to hire two experienced examiners. An advertisement was placed in a trade newsletter that goes directly to the homes of more than 400 examiners and also to every banking department in the U.S. No inquiries were received by the Financial Division as a result of this advertisement and it is assumed that the comparatively low pay for experienced examiners was the reason. The attached schedule compares Montana bank examiner salaries with the average of those paid by other employers in the region. Entry level examiner positions are similar in pay while more experienced examiners in the grade 15 and 16 level are paid substantially less by the State of Montana.

GRADE 14 PAY COMPARISON TO PEER GROUP

EMPLOYER:	MINIMUM	MIDRANGE	MAXIMUM
Montana - 1992	\$23,587	\$28,627	\$34,740
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Note: The peer group compared in the analysis consists of the states of North Dakota, South Dakota, Wyoming, Idaho, National Credit Union Association, Office of the Comptroller of the Currency, Federal Reserve Board, and the Federal Deposit Insurance Corporation. All of the peer group federal agencies use salary figures for Montana assigned employees.

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See Note on previous page

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RECOMMENDATION:

It is the recommendation of the Governor's Banking Code Advisory Council that management within the Department of Commerce be given the discretion to;

- a) increase the salaries of bank examiners up to the peer group average in accordance with state policy and law;
- b) maximize incentives for experienced examiners through salary, recognition, and increasingly responsible supervisory and examination responsibilities.
- c) the State Banking Board shall periodically review salary information and establish the current group average.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Economics COMMITTEE BILL NO. HB 201
DATE 1-29-93 SPONSOR(S) Rep. Hibbard

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Phil Landyquist	1 ST Sec BK - Bozeman	✓	
Joe Shores	MT INDEPENDENT BANKERS	✓	
Frank S. Hock	Security State Bank - Helena	✓	
Ed Roger Terry	MT Independent Bankers	✓	
Ed Rulaker	Terry, Mont	✓	
Dean Nelson	1 ST INTERSTATE OF MT.	✓	
Del Harris	Yellowstone Bank	✓	
Ron Ahlers	First Citizen - Boz	✓	
JOHN CADDY	MT BANKERS ASSN	✓	
Bogie Shoushing	First Bank Montana	✓	
Charles L. Franklin	1 ST United Bank Sidney	✓	
Rodney L. Smith	U.S. NATL Bldg Lodge	✓	
Ron Scott	1 ST State Bank MARIETTA	✓	
LEON LANDEMEIER	BK of BRIDGE	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO. 201

DATE Jan. 29, 1993 SPONSOR(S) Rep Hubbard

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
MARY B CARLSON	Self	✓	
Gene Burce	Garfield Co Bank	✓	
DON HUTCHINSON	FINANCIAL DIV ST OF MT	✓	
Robyn Young	DCM / MSBIC	✓	
Bill Riegman	1st Interstate MBA-MIR Bank	✓	
Janet Jones	MBA / MCB	✓	
John R. King	1st Security Bank of Kalispell	X	
Arnell B. Ellis	Montana Bank	X	

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REP. PAVLOVICH moved to adopt an amendment proposed by REP. ED GRADY. Paul Verdon explained the amendment. REP. COCCHIARELLA called the question. Voice vote was taken. Motion carried 13 - 5 with REPS. SONNY HANSON, BACHINI, SIMON, MILLS AND CHAIRMAN BENEDICT voting no. EXHIBIT 19

Motion/Vote: REP. BACHINI MADE A SUBSTITUTE MOTION THAT HB 216 BE TABLED. Roll call vote was taken. Motion failed 8 - 10 with REPS. KNOX, BARNETT, BRANDEWIE, HERRON, DOWELL, TUSS, STELLA JEAN HANSEN, PAVLOVICH, COCCHIARELLA AND LARSON voting no. EXHIBIT 15

Motion/Vote: REP. PAVLOVICH MOVED HB 216 DO PASS AS AMENDED. Roll call vote was taken. Motion failed 9 - 9 with REPS. BACHINI, BARNETT, DAILY, ELLIS, MILLS, WAGNER, SIMON, SONNY HANSON AND CHAIRMAN BENEDICT voting no.

Vote: HB 216 DO NOT PASS. Motion failed 9 - 9.

EXECUTIVE ACTION ON HB 201

Motion: REP. PAVLOVICH MOVED HB 201 DO PASS.

Discussion: REP. SIMON moved to adopt an amendment proposed by Robin Young. EXHIBIT 17

The question was called. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. SIMON MOVED HB 201 DO PASS AS AMENDED. The question was called. Voice vote was taken. Motion carried unanimously.

Vote: HB 201 DO PASS AS AMENDED. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 358

Motion: REP. PAVLOVICH MOVED HB 358 DO PASS.

Discussion: REP. SONNY HANSON moved to adopt an amendment to correct an error and change "members" to "numbers" on page 1, line 16. REP. MILLS called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. SIMON MOVED HB 358 DO PASS AS AMENDED. REP. BACHINI called the question. Voice vote was taken. Motion carried 15 - 3 with REPS. DAILY, STELLA JEAN HANSEN AND WAGNER voting no.

Vote: HB 358 DO PASS AS AMENDED. Motion carried 15 - 3.

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

2-3-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

wp.rollcall.man

HOUSE STANDING COMMITTEE REPORT

February 3, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 201 (first reading copy -- white) do pass as amended.

Signed: Steve Benedict
Steve Benedict, Chair

And, that such amendments read:

1. Page 33, line 14.

Following: "company"

Insert: "or the Montana small business investment capital
company"

-END-

Committee Vote:
Yes 18, No 0.

271504SC.HbF

Representative Barnett stated HB 358 was a "true compromise" and provided protection for individual banks. He stated HB 358 gives Montana the option to "opt out" of the Douglas Amendment proposed by Congress.

EXECUTIVE ACTION ON HB 358

Motion/Vote:

Senator Gage moved HB 358 BE AMENDED (Exhibit #2). The motion CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Gage moved HB 358 BE CONCURRED IN AS AMENDED. The motion CARRIED 11 to 2 with Senator Kennedy and Senator Bruski-Maus voting NO.

HEARING ON HB 201

Opening Statement by Sponsor:

Representative Chase Hibbard, House District 46, stated HB 201 addressed the general banking laws which were written in 1927. He provided written testimony (Exhibit #4) and went over points of it in his oral testimony. He reviewed the fiscal note with the Committee and stated there would be no financial impact from HB 201.

Proponents' Testimony:

John Cadby, Montana Bankers Association/ stated his support of HB 201.

Tom Ellis, Norwest Bank, Helena, stated his support of HB 201.

Bill Ruegamer, First Interstate Bank of Commerce, Chairman, Banking Codes Advisory Council, stated his support of HB 201.

Jim Bennett, First Citizens Bank, Billings stated his support of HB 201.

Bill Thares, Montana Independent Bankers, stated his support of HB 201.

Rex Manuel, First Banks, stated his support of HB 201.

Roger Tippy, Independent Bankers, stated his support of HB 201.

Gary Carlson, Certified Public Accountant, stated his support of HB 201.

Peter Van Nice, Valley Bank, Helena, stated his support of HB 201.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Christiaens asked Representative Hibbard about the changes in pay for administrators. Representative Hibbard stated the pay changes would only address the commissioners and not the examiners. He stated the fiscal note cited an increase to the commissioner's salary which would be offset by financial institution assessments.

Senator Lynch asked Mr. Hutchinson why the Governor's banking Council recommended an increase the salaries of bank examiners. Don Hutchinson, Commissioner of Financial Institutions, stated the increases would be handled administratively. Senator Lynch asked Mr. Hutchinson who was going to allow the 30% raises. Mr. Hutchinson stated the raises were not part of HB 201, and the case for the raises would be brought before the personnel in the Department of Administration. He stated the Department would ultimately decide on the raises.

Senator Gage asked Mr. Hutchinson if the title inferred that if a bank had undergone a federal audit, the state would not have to audit the bank again. Mr. Hutchinson stated the provision has always been in place and the audits would have to be accepted by the other auditing office. He stated the overlapping audits would be corrected through HB 201 because federal and state auditors would enter into cooperative agreements.

Senator Gage asked Mr. Hutchinson if the audit by the state should be disclosed to the share holders. Mr. Hutchinson stated there is a state rule which says the audit results shall not be disclosed to the share holders of a bank. He stated the state law parallels federal statutes. Senator Gage asked if HB 201 could include a section which would allow for disclosure of information from an audit. Mr. Hutchinson stated the law applied to the proprietary nature of the examination. He stated the law is to protect the proprietary information from the audit.

Senator Brenden asked Mr. Ruegamer why the Director of Commerce left off of the Board. Mr. Ruegamer stated the Director was left off as a matter of practicality. He stated the Director chose not to serve on the Board.

Closing by Sponsor:

Representative Hibbard stated HB 201 does not presuppose the

raises in Exhibit #4. He stated HB 201 was supported by all of the major banking associations in the state. Representative Hibbard stated HB 201 would update the banking laws which are antiquated.

EXECUTIVE ACTION ON HB 304

Motion/Vote:

Senator Christiaens moved HB 304 BE CONCURRED IN. The motion carried 12 to 1 with Senator Klampe voting NO.

EXECUTIVE ACTION ON HB 139

Motion/Vote:

Senator Kennedy moved HB 139 BE AMENDED (Exhibit #5). The motion carried UNANIMOUSLY.

Motion/Vote:

Senator Mesaros moved HB 139 BE CONCURRED IN AS AMENDED. The motion carried UNANIMOUSLY.

EXECUTIVE ACTION ON HB 222

Discussion:

Senator Bruski-Maus stated HB 222 should be killed in Committee. She stated the Subcommittee decided to hear their constituent's opinions on it. She stated her constituents had given her the impression that licensure was necessary but the price was too high.

Senator Gage stated the Department of Justice felt the fees had to be high in order to finance the inspections.

Senator Brenden stated he concurred with Senator Gage and Senator Bruski-Maus. He added the burden of cost through a licensing fee was necessary, but the licensing fee was too high.

Senator Lynch stated he did not want to foster an anti-business climate. He stated Montana would be the only state in the Union which would make the larger corporations register and pay a \$200 license fee to sell a \$9 fire extinguisher. He stated the fee was too high and seemed impractical. He stated he felt it was incorrect not to charge the large corporations anything at all.

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 3/4/92

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	✓		
Senator Christaens	✓		
Senator Bruski-Maus	✓		
Senator Gage	✓		
Senator Hager	✓		
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Ford Brenden	✓		
Senator Wilson	✓		

DATE March 4

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 201, HB 358

Name	Representing	Bill No.	Check One	
			Support	Oppose
RILEY JOHNSON	NFIB	358	X	
Steve Browning	Norwest Bank	358	X	
JOHN DELANO	MONT BANK SYSTEM		X	
Bill LEARY	Mt. BANKERS ASSN.	201 358	X	
Ed JASMIN	NORWEST BANK	201 358	X	
Roger Tippy	Mt Independent Bankers	201 358	X (And)	
JOE THARES	" " "	201 358	X X	
John Cadby	MT BANKERS ASSN	201 358	X X	
Goin Burnett	FIRST CITIZENS BK Bldg	201 358	X X	
Bill Riegman	1ST Interstate Bank of Mont	201 358	X	
Sam Ellis	Norwest Banks	201 358	X	
Chris Olson	Dept of Commerce	201 358		
GEVE PHILLIPS	1ST INTERSTATE OF MT	358	X	
REX MANUEL	1ST BANK	358 201	X	
Larry Fashender	Bank of Mt System		X	
MARY B CARLSON	Self	358 201	X	
PETER VAN NICE	Valley Bank	358	X	
	VISITOR REGISTER Helen	201		

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Closing by Sponsor:

Representative Ryan closed on HB 637, stating it was a good consumer bill. He stated Senator Christiaens would carry HB 637 on the Senate floor.

Announcement:

Chair Lynch announced Representative Tuss had injured her back and was unable to present HB 545. He stated HB 545 would be rescheduled for hearing.

EXECUTIVE ACTION ON HB 390

Motion:

Senator Christiaens moved HB 390 BE CONCURRED IN.

Discussion:

Senator Brenden explained to the Committee about global warming and how it would affect HB 390. He stated global warming is an externality, and externalities can be added on to the costs of utilities.

Vote:

The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 465

Motion/Vote:

Senator Kennedy moved HB 465 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 201

Motion/Vote:

Senator Christiaens moved HB 201 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 3/9/92

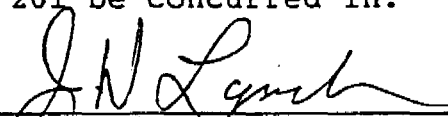
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Senator Lynch	✓		
Senator Christiaens	✓		
Senator Brenden	✓		
Senator Gage	✓		
Senator Hager			✓
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Bruski-Maus	✓		
Senator Wilson	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 201 (first reading copy -- blue), respectfully report that House Bill No. 201 be concurred in.

Signed: 
Senator John "J.D." Lynch, Chair

MONTANA STATE BANKING CODE ADVISORY COUNCIL

BACKGROUND

Montana state chartered banks and trust companies are chartered and regulated by the Financial Division of the Montana Department of Commerce. The Division currently regulates 86 banks and 3 trust companies with total assets approaching 4 billion dollars. The Commissioner of Financial Institutions is the Administrator of the Financial Division.

The bulk of Montana's banking laws (the Bank Act, Title 32, Chapter 1, MCA) were written in 1927. Many of the banking laws have been amended one or more times since then, in an attempt to keep pace with changes in the banking industry and public needs. However, no comprehensive review of banking law appears to have taken place since 1927. Amendments to existing laws occasionally have created conflicts or inconsistencies with other laws. Certain laws which are dealt with only infrequently may not have been amended or updated and address archaic concepts. Coupled with very rapid changes in federal laws, and changes in other pertinent state laws (especially the Uniform Commercial Code and the corporate code) it has become increasingly difficult for banks, regulators and the legal system to confidently and effectively deal with the Bank Act.

In response to this situation, Governor Stephens issued Executive Order 34-91 on December 3, 1991, creating the Montana State Banking Code Advisory Council. The Council was created for "...identifying outdated language and requirements as well as omissions or conflicts in statute that are not conducive to the proper supervision of state banks." Issues to be addressed, at a minimum, included:

"(a) Ensuring the powers and duties of the Commissioner of Financial Institutions are clearly set forth in the Banking Code.

(b) Defining a comprehensive mission and purpose for the Financial Division as it relates to the regulation and supervision of state banking institutions.

(c) Ensuring that the Commissioner of Financial Institutions is involved in the legislative process with the responsibility for drafting legislation and determining the impact on the public, the banking community and the Financial Division.

(d) Ensuring that statutory authority is developed to address the areas where supervision is now lacking but deemed necessary for the proper supervision of state banks, including the examination of holding companies, electronic data processing and community reinvestment requirements, etc."

The members of the Council agreed not to address interstate banking, interstate branching or intrastate branching.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4DATE 3/4/93BILL NO. H3201

The Council is composed of 18 members: 6 from the banking industry, 2 attorneys representing both of the state's banking associations, 2 accountants, 1 member of the State Banking Board, 2 private citizens, the Commissioner of Financial Institutions, the attorney for the Financial Division, the Director of the Department of Commerce, a member of the Montana Senate, and a member of the Montana House of Representatives.

The recommendations of the Council have been reported to and reviewed by the Financial Division of the Department of Commerce, the State Banking Board and are in the process of being reviewed by a committee of the State Bar Association. The report has been submitted to the Governor's Office and to the Legislative Council for drafting.

RECOMMENDATIONS OF THE COUNCIL

Most of the recommendations made by the Council are of a "house-keeping" nature: modernizing language, clarifying duties and responsibilities, eliminating sections of law that clearly are obsolete, and correcting conflicts with other laws. Significant real changes affecting the operation of banks or the Financial Division include:

<u>Section</u>	<u>Change</u>
----------------	---------------

- | | |
|----------|---|
| 32-1-211 | Reduces from 30 months to 24 months the time allowed between bank examinations by the Financial Division. Also reduces from 120 days to 60 days the time allowed for submitting the completed examination report to the bank. |
| 32-1-218 | Broadens the Financial Division's rulemaking authority to better meet its responsibilities and obligations. |
| 32-1-3xx | This Part of the law generally governs the formation and organization of the banking <u>corporation</u> . Wherever reasonable and prudent, general corporation law will be incorporated into this Part. A number of existing sections will be deleted. The intent is to modernize and standardize bank's corporate matters. |
| 32-1-412 | Increases, to a certain extent, the ability of banks to borrow money to accommodate the use of repurchase agreements, which possess characteristics of both deposits and borrowings; and to allow participation in certain federal housing programs. |
| 32-1-422 | Gives the Financial Division rulemaking authority to permit bank investments in certain types of corporate stock. |

3-4-93

HB-201

32-1-432 Addresses long-time problems and misunderstandings of legal lending limits to borrowers.

32-1-465 &

32-1-467 Reduces restrictions on bank officer, director and employee overdrafts and loans to directors or a bank's managing officer. Brings state law into conformance with existing federal law.

In addition to the legal recommendations, the Council also recognized staff retention problems within the Financial Division and recommended increasing bank examiner salaries and using certain incentives in an attempt to retain experienced examiners.

BANKING CODE ADVISORY COUNCILRECOMMENDATION ON BANK EXAMINER PAY

The history of employing financial institution examiners within the Department of Commerce has been one of frustration and inefficiency. The Financial Division has been able to advertise for and employ entry level examiners with little difficulty. The entry level examiners are usually hired upon graduation in accounting from an accredited university or college. The degree they received in college is basically the minimum qualification required to enter a training period to become a qualified financial institution examiner. After employment, the division will spend over \$5,000 in direct training costs for schools administered by the Federal Deposit Insurance Corporation (FDIC) and the Council of State Bank Supervisors (CSBS). Additional funds will be spent on travel, meals and lodging. In addition, this training period greatly reduces the examiner-in-training's ability to perform useful examination work for the division and the financial institutions being examined.

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A. PROGRAM OVERVIEW (Statutes & Objectives)

Mission

The mission of Montana's Financial Institutions Division and the State Banking Board is to allocate, through quality management, available resources to implement effective regulatory programs for the institutions we regulate. Our primary focus is to ensure the continuance of safe and sound financial practices in state chartered banks. It follows that the financial services offered by these sound institutions should foster economic growth, and meet the public demand for these financial services in their communities. To accomplish this mission, the division and board are committed to the development of a work environment conducive to high productivity.

Responsibilities

The division accomplishes its responsibilities through several information gathering sources. However, the principal method is the periodic examination of each state chartered institution by field examiners. The result of an examination is a detailed analysis of an institution's condition. The examiner analyzes the capabilities of officers and directors; adequacy of the bank's policies, capital, earnings and liquidity; the quality of assets, asset/liability mix; and compliance with laws and regulations. The examination may indicate conditions ranging from banks with no problems, ones with potential problems, or to ones with severe and continuing problems. While the majority of Montana banks are financially sound, some do develop problems. Problems frequently encountered are large volumes of poor quality assets (usually loans), that become uncollectible and are a loss to the bank, poor earnings, an unstable or declining deposit base, inadequate capital or liquidity and internal control problems.

"Problem banks" usually exhibit an array of problem areas rather than one specific problem area. The early detection of problems within a bank enables the division to concentrate its resources most effectively to control or eliminate problems. In extreme cases the Commissioner has legal authority to initiate formal or informal actions such as board resolutions, memorandums of understanding, or cease and desist orders. These documents specify the banks problems, require corrective actions, and allow reasonable time for correction.

Institutions regulated and examined by the division include 127 state chartered banks and branches, 3 trust companies, 16 credit unions, 20 consumer loan companies, 86 sales finance companies and 5 private escrow companies. We presently have an authorized staff of 13 field examiners, 2 examiner supervisors, and an office staff of 5. The institutions regulated and examined by the division range from small and relatively uncomplicated institutions with assets of only a few million dollars, to large and highly sophisticated banks with assets in the 5 to 7 hundred million dollar range.

The division's authority to regulate banks extends only to state chartered banks. National banks are regulated by the Comptroller of the Currency. State chartered banks are composed of two groups, those which are members of the Federal Reserve System and those which are not. Membership in the Federal Reserve System is a

matter of choice for each state chartered bank. Member banks, in addition to state regulation and examination, are also subject to regulation and examination by the Federal Reserve System. Non-member banks are subject to examination by the FDIC and this division. The division may examine a bank independently or may be joined by examiners from the Federal Reserve or FDIC for a concurrent examination.

Authorization

Title 2-15-1803, MCA	Establishes the State Banking Board
Title 31-1-221-222, MCA	Licensing of sales finance companies
Title 32-1-202, MCA	Duties of State Banking Board
Title 32-1-211, MCA	Examination and supervision of banks and trust companies
Title 32-2-205, MCA	Chartering savings & loan associations
Title 32-2-301, MCA	Examination of savings & loan associations
Title 32-3-301, MCA	Chartering credit unions
Title 32-3-203, MCA	Examination of credit unions
Title 32-4-306, MCA	Examination of Development Corporations
Title 32-5-201, MCA	Licensing of consumer loan companies
Title 32-5-403, MCA	Examination of consumer loan companies
Title 32-7-109, MCA	Licensing of escrow companies
Title 32-7-108, MCA	Examination of escrow companies
Title 72-27-203, MCA	Reports on prearranged funeral plans
U.S.C. Sec.10 FDIC Act	FDIC Improvement Act requires less time between examinations